

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

Tyler Dwayne Williams, #323975,	)	Civil Action No. 8:13-2670-MGL
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	<b>ORDER AND OPINION</b>
South Carolina Department of Corrections;	)	
Kirkland Pharmacy; Dr. Thomas Byrnes,	)	
	)	
Defendants.	)	
	)	

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Plaintiff Tyler Dwayne Williams (“Plaintiff”), an inmate in the custody of the South Carolina Department of Corrections (“SCDC”), proceeding *pro se* and *in forma pauperis* filed this action pursuant to 42 U.S.C. § 1983. Plaintiff seeks \$500,000.00 in damages for alleged physical injury and mental distress.

In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina, this matter was referred to United States Magistrate Judge Jacquelyn D. Austin for pretrial handling. The Magistrate Judge reviewed the Complaint pursuant to the procedural provisions of 28 U.S.C. § 1915 and the Prison Litigation Reform Act, as well as applicable case precedents. On October 31, 2013, the Magistrate Judge issued a Report and Recommendation (“Report,” ECF No. 15) in which she recommended that Defendants SCDC and Kirkland Pharmacy be dismissed from this action *without prejudice* and without issuance and service of process.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is

made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). Plaintiff was advised of his right to file objections to the Report. (ECF No. 15 16 6). Plaintiff has filed no objections and the time for doing so has expired. In the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge’s recommendation to be proper. Accordingly, the Court adopts and incorporates the Report and Recommendation by reference in this Order. This action is DISMISSED without prejudice and without issuance and service of process as to Defendants South Carolina Department of Corrections and Kirkland Pharmacy. The action is proceeding against Defendant Dr. Thomas Byrnes.

It is further ORDERED that this matter is returned to the Magistrate Judge for further pretrial proceedings.

IT IS SO ORDERED.

s/Mary G. Lewis  
United States District Judge

November 22, 2013  
Spartanburg, South Carolina